

AF 1111

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of : **Confirmation No. 8785**
Kei USUI : Docket No. 2001_1862A
Serial No.10/030,420 : Group Art Unit 1753
Filed January 10, 2002 : Examiner Arun S. PHASGE
METHOD FOR WASHING FOODSTUFF WITH ACTIVATED WATER **Mail Stop: Appeal Brief- Patents**

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in reply to the Examiner's Answer dated December 30, 2004.

In the paragraph beginning at page 5, line 8 of the Answer, the Examiner argues that "The claims do not state how the quality of the resultant foodstuff is improved." In reply, it is unnecessary for the claims to recite how quality of the foodstuffs is improved since this is the function of the specification e.g. the Examples.

The improvement of foodstuff quality by the present invention is a fact as evidenced by the specification.

In the paragraph starting on page 5, line 13, the Examiner appears to be concerned with molecular hydrogen as released from the hydrogen-absorbing alloy. In reply, the present claims are silent on the state of the hydrogen released from the alloy.

In this regard, the present claims merely recite contacting water with an alloy having absorbed hydrogen, whereby the alloy having absorbed hydrogen releases hydrogen to activate the water which is used to wash foodstuffs, whereby the quality of the foodstuffs is improved. The alloy having absorbed hydrogen is neither disclosed nor suggested by Reznik.

Reznik's disclosure of providing "molecular hydrogen from any suitable source such as a gas cylinder or an electrolysis device" in column 6, lines 38 and 39 is not relevant here since the present claims do not recite the form of hydrogen (e.g. molecular or atomic) nor is the role of hydrogen in improving food quality in the present invention known.

Kawasaki clearly does not overcome the deficiencies of Reznik since Kawasaki merely deals with removing dissolved oxygen in liquids (drinks) with hydrogen blown into the liquid in the presence of certain metals and electrical or vibration energy. It is not clear what Kawasaki's disclosure of treating liquids with hydrogen has to do with washing of foodstuffs.

It would be a strained interpretation to view Kawasaki's treatment of drinks as washing treatment for foodstuffs. Therefore Kawasaki is irrelevant to Reznik and there is no motivation to combine Kawasaki with Reznik nor would this lead to the presently claimed invention.

The combination of the references is, at best, an improper hindsight reconstruction of the present invention.

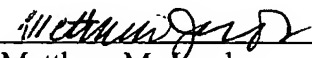
For the foregoing reasons, the combined reference teachings fail to teach the present claims.

Accordingly, reversal of the Final Rejection is respectfully requested.

Respectfully submitted,

THE COMMISSIONER IS AUTHORIZED
TO CHARGE BY FIRST CLASS MAIL THE
FEES FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975

Kei USUI

By: 
Matthew M. Jacob
Registration No. 25,154
Attorney for Appellant

MJ/kes
Washington, D.C.
Telephone (202) 721-8200
Facsimile (202) 721-8250
February 28, 2005